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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/805,586	03/13/2001	John Anthony Lotspih	DP-301891	1171

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EXAMINER

EDELL, JOSEPH F

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 11/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/805,586

Applicant(s)

LOTSPIH, JOHN ANTHONY

Examiner

Joseph F Edell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 August 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 March 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 1, 11, and 12 define the expansion restraining elements remain operative *without failing*, however the specification does not convey to one skilled in the art what parameters determine a successful and/or failing expansion restraining element.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-4, 7-15, and 18-20, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,065,772 to Yamamoto et al. in view of U.S. Patent No. 6,129,377 to Okumura et al.

Yamamoto et al. disclose an air bag assembly that is basically the same as that recited in claims 1-4, 7-15, and 18-20, as best understood, except that both expansion restraint elements do not remain operative and the cushion is not formed from a single piece of material, as recited in the claims. Figures 1-12(d) of Yamamoto et al. teach an air bag assembly having an inflator 22 (Fig. 11a), a first inflatable portion 51 (Fig. 11a), a second inflatable portion 53 (Fig. 11c), a first expansion restraining element 55 (Fig. 11a) extending partially but not completely across the width of the air bag cushion in substantially nonparallel relation to the flow path of the inflation medium, and a second expansion restraining element 57 (Fig. 11b) extending partially but not completely across the air bag cushion in opposing staggering relation to the first expansion element in substantially nonparallel relation to the flow path of the inflation medium. Okumura et al. show an air bag assembly similar to that of Yamamoto et al. wherein the cushion 15 (Fig. 9) is formed from a single piece of woven textile that is folded and enclosed with a perimeter seam and the two expansion restraint elements 22 (Fig. 4) remain operative upon full inflation. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the air bag assembly of Yamamoto et al. such that the cushion is formed from a single piece of woven fabric and the expansion restraint elements remain operative upon full inflation, such as the air bag assembly disclosed in Okumura et al. One would have been motivated to make such a modification in view of the suggestion in Okumura et al. that an air bag formed from a single piece of woven fabric is simple to manufacture and the expansion restraint elements that remain operative upon inflation allow for smooth flow of inflating gas.

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5. Claims 5, 6, 16, and 17, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamamoto et al. in view of Okumura et al. as applied to claims 1-4, 7-15, and 18-20, as best understood above, and further in view of U.S. Patent No. 5,618,595 to Matsushima et al.

Yamamoto et al., as modified, disclose an air bag assembly that is basically the same as that recited in claims 5, 6, 16, and 17, as best understood, except that the cushion yarn density is not specified, as recited in the claims. Matsushima et al. show an air bag assembly similar to that of Yamamoto et al. wherein the cushion 1 (Fig. 1) has a density of about 840 denier (see column 1, lines 18-20). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the air bag assembly of Yamamoto et al. such that the cushion has a yarn density of about 105 denier to about 840 denier and denier per filament of yarns in the range of about 3 to about 6, such as the air bag assembly disclosed in Matsushima et al. One would have been motivated to make such a modification in view of the suggestion in Matsushima et al. that the linear density of about 840 denier is average.

Response to Arguments

6. Applicant's arguments filed 14 August 2003 have been fully considered but they are not persuasive. Applicant argues that it would not have been obvious to combine the teachings of Yamamoto et al. in view of Okumura et al. because Yamamoto et al. teaches away from an arrangement wherein the staggered expansion restraining elements are adapted to remain operative without failing and the modification of

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Yamamoto et al. to include permanent seams as taught in Okumura et al. would fundamentally change the principle operation of the air bag of Yamamoto et al. However, the principle operation of the air bag of Yamamoto et al. is such that the deployment of the air bag is divided into three chambers where a first chamber is deployed in a position between a passenger's torso and a vehicle side part, a second chamber is deployed in a position between the passenger's torso and head and the vehicle side part, and a third chamber is deployed in a position between the passenger's head and the vehicle side part. The embodiment shown in Figures 9-12(d) of Yamamoto et al. shows an air bag assembly that successfully deploys air into the three chambers while avoiding the seat restraint X (Fig. 9). Figures 11(a)-11(c) of Yamamoto et al. clearly shows that the chambers are constructed to direct air flow in a zigzag motion through the use of staggered seams 55,56 and communication holes 54,56. The tear seam is not critical for successful deployment of the air bag assembly but rather aids in folding of the air bag in module 20 (Fig. 4) and assisting in delayed expansion of the third chamber. Replacing the tear seam with a seam that remains operative would still provide a delayed expansion of the third chamber and does not substantially alter the deployment of the third chamber. Moreover, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art and does not include knowledge gleaned only from the

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applicant's disclosure. Therefore, motivation to modify the air bag of Yamamoto et al. derives from the teaching in Okumura et al. that an air bag having staggered deployment of three chambers as shown in Figure 11(b) provides an air bag that is simple to manufacture because the assembly of the air bag utilizes a single piece of woven fabric and does not require the use of two materially different seam threaders. Lastly, the applicant fails to address the 35 U.S.C. 112, first paragraph, rejection thus claims 1-20 remain rejected.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (703) 605-1216. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.


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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.



JE

November 10, 2003



Peter M. Cuomo
Supervisory Patent Examiner
Technology Center 3600